

# **REAL ID Act Quarterly Report to the Legislature**

**April 1, 2011 through June 30, 2011**

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## **Table of Contents**

<b>Table of Contents</b>	<b>i</b>
<b>Preface</b>	<b>ii</b>
<b>California Activities and Approach</b>	<b>1</b>
<b>REAL ID Act of 2005</b>	<b>2</b>
<b>Federal Legislative Activity</b>	<b>4</b>
Pending Federal Legislation	4
Obsolete Federal Legislation	5
<b>California Legislative Activity</b>	<b>6</b>
<b>Federal Funding</b>	<b>7</b>

## **Preface**

Pursuant to legislative request, the REAL ID Act Quarterly Report to the Legislature is being submitted for the period of April 1, 2011, through June 30, 2011. This report is consistent with the REAL ID Quarterly Reports previously required by language contained within the Supplemental Report of the 2007 Budget Act.

This year marks the 10<sup>th</sup> anniversary of the September 11, 2001, terrorist attacks on the United States. In fact, by the time the next quarterly report is issued, this anniversary will have passed. In response to these attacks, the REAL ID Act was signed into law by Congress on May 11, 2005, as Public Law 109-13, 119 Statute 231, 302, and was codified as Title 49 U.S.C. 30301. The final regulations were published in the Federal Register on January 29, 2008.

The federal strategy has been to leverage state-issued driver license and identification (DL/ID) cards as the primary form of identification. The California Department of Motor Vehicles (DMV) has implemented best business practices consistent with many of the provisions of the REAL ID Act, initiating many best business practices prior to the terrorist attacks. DMV's primary objective in this area is to issue DL/ID cards in the most secure manner possible, while safeguarding the integrity of personally identifiable information.

On March 7, 2011, the Department of Homeland Security published a final rule delaying the full compliance deadline of the REAL ID Act from May 11, 2011 to January 15, 2013. Ongoing issues remain regarding the impact to California citizens if California does not comply with the REAL ID Act, including an inability to board federally regulated commercial aircraft and access federal facilities. California legislation is required to implement the REAL ID Act.

## **California Activities and Approach**

California has positioned itself as one of the primary states to influence the review of the REAL ID Act and to address concerns related to federal funding; development of electronic verification systems; and the lack of privacy protection of personally identifiable information. These three issues have been, and continue to be, key areas of concern.

California will continue discussions with the Department of Homeland Security (DHS), other states, and industry representatives including the National Governors Association and National Conference of State Legislatures, to resolve REAL ID-related issues. In an effort to achieve a common level of program readiness, California has continued to advocate the need for all states to implement uniform licensing and identification standards.

California DMV will continue to evaluate the REAL ID Act and implement best business practices to provide Californians with a DL/ID card that can be used for business activities, travel and will be acceptable for “official purposes.” Continued implementation of best practices that are consistent with the provisions of the REAL ID Act will improve the security and integrity of the DL/ID card, and the privacy protection of personally identifiable information thereby issuing a DL/ID card in a secure manner.

**REAL ID Act of 2005:**

The REAL ID Act was enacted by Congress in 2005, as Public Law 109-13, and the final regulations were published in the Federal Register on January 29, 2008. To be deemed REAL ID-compliant, California must provide documentation to the Department of Homeland Security (DHS) at least 90-days prior to January 15, 2013, certifying that the State complies with the provisions of the REAL ID Act.

The REAL ID Act is intended to strengthen the security of state-issued DL/ID cards by implementing minimum issuance standards that must be met by all states. State-issued DL/IDs must comply with the REAL ID Act requirements if the DL/IDs are to be acceptable for “official” federal purposes, including boarding federally-regulated commercial aircraft and accessing federal facilities.

In December, 2009, DHS stayed the January 1, 2010, deadline for “material compliance” but the May 11, 2011 deadline for “full compliance” remained the same. On March 7, 2011, DHS published a final rule delaying the full compliance deadline for the REAL ID Act until January 15, 2013. DHS cited numerous reasons for the extension, including confusion caused by the introduction and consideration of the PASS ID Act, diminishing state budgets, and the continued need to be able to use state issued driver license and identification (DL/ID) cards for “official purposes,” such as accessing a federal building or boarding a plane. California has implemented best business practices that comply with many of the provisions of the REAL ID Act.

**IMPLEMENTING 9/11 COMMISSION RECOMMENDATIONS – DHS PROGRESS REPORT 2011**

Secretary of Homeland Security Janet Napolitano released a report that acknowledges the significant progress that DHS, along with its many partners, has made to strengthen the security, reliability and accuracy of personal identification documents and reduce identity fraud while enhancing privacy safeguards.

Since 2006, DHS has awarded over \$180 million dollars through the Driver’s License Security Grant Program (DLSGP) to help states and territories improve security of state-issued driver’s licenses and identification cards in order to reduce fraud, enhance the reliability and accuracy of personal identification documents, upgrade information technology and facility infrastructure, document security requirements, upgrade equipment and reengineer business practices. These enhancements have enabled states to make progress toward achieving compliance with many aspects of the REAL ID regulations.

DHS is currently preparing guidance for all states clarifying the minimum standards that states must meet to achieve full compliance with REAL ID in order to ensure that every state is afforded the opportunity to reach full compliance in a practical manner.

**Federal Legislative Activity**

California DMV monitors and tracks federal legislation related to the REAL ID Act to determine the impact on California residents and whether the legislation will require changes to existing departmental processes and procedures.

Federal legislation is analyzed by congressional staff after introduction; however, bills do not necessarily move through the process of a formal committee review.

**PENDING FEDERAL LEGISLATION**

The following represents the federal legislative activity related to the provisions of the REAL ID Act during the 112<sup>th</sup> Congressional Session (January 3, 2011 – January 3, 2013):

**H.R. 102: Blackburn (Tennessee)**

This legislation, Photo Identification Security Act, would provide that only certain forms of identification of individuals may be accepted for any official purpose by the Federal Government and by financial institutions. Acceptable identification relating to the REAL ID Act is “a driver’s license or identification card issued by a State in the case of a State that is in compliance with title II of the REAL ID Act of 2005.”

**Status**

- January 5, 2011 - Introduced
- Referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
- Referred to House Financial Services
- Referred to the Subcommittee on Financial Institutions and Consumer Credit

**OBSOLETE FEDERAL LEGISLATION**

During the 111th Congressional Session (January 3, 2009 – January 3, 2011), the following REAL ID-related bills were not passed or enacted:

**S.1261: Akaka (Hawaii)**

This legislation, Providing for Additional Security in States' Identification Act (PASS ID Act) of 2009, would repeal the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002. The bill amends the Homeland Security Act of 2002 to prohibit federal agencies from accepting state-issued driver's licenses and personal identification cards (DL/IDs) unless the DL/IDs issued by the state are materially compliant with the minimum standards of the Act; and does not allow persons to board commercial aircraft due to the failure to present a DL/ID issued pursuant to the Act. Additionally, this bill would specify the minimum requirement and issuance standards for such DL/IDs.

**H.R. 140: Gallegly (California)**

This bill would withhold certain specified percentages of (fiscal year) highway funds from a state if it does not comply with certain REAL ID Act requirements in issuing a driver's license or identification card, and for other purposes.

**H.R. 3174: Blackburn (Tennessee)**

This legislation provides that only certain forms of identification of individuals may be accepted by the Federal Government and financial institutions. The proposed forms are considered acceptable identification for both the Federal Government and financial institutions:

**H.R. 3471: Cohen (Tennessee)**

This bill repeals title II of the REAL ID Act of 2005, to reinstitute section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, which provides States additional regulatory flexibility and funding authorization to more rapidly produce tamper and counterfeit-resistant driver licenses, and to protect privacy and civil liberties by providing interested stakeholders on a negotiated rulemaking with guidance to achieve improved 21<sup>st</sup> century licenses to improve national security.



**California Legislative Activity**

The following represents the California legislative activity related to the provisions of the REAL ID Act during the 2011/2012 Session:

**PENDING LEGISLATION**

S.B. 842: Rubio

This bill would require the Department of Motor Vehicles to establish and issue a California Residency Identification Card for military and veteran dependents. This program would extend the rights of California residency to spouses, domestic partners and dependents of members of the armed forces for purposes of entitlement to any state or local benefits and eligibility to apply for and receive state and local public services regardless of immigration status,

**OBSOLETE LEGISLATION**

During the 2009/2010 Legislative Session, the following REAL ID-related bill was not passed or enacted:

**S.B. 60: Cedillo**

This bill would require the Department of Motor Vehicles to issue driver's licenses and identification cards (DL/IDs) that are in compliance with specified requirements of the federal REAL ID Act of 2005 (Public Law 109-13).

### **Federal Funding**

HR 2892 (Price, North Carolina) became Public Law 111-83 which authorized the DHS to provide grant funding to state motor vehicle/driver's license authorities to achieve compliance with REAL ID requirements. The federal government has provided federal funds to states through four grant programs:

- FY 2008 REAL ID Demonstration Grant Program
- FY 2009 Driver's License Security Grant Program (2009 DLSGP)
- FY 2010 Driver's License Security Grant Program (2010 DLSGP)
- FY 2011 Driver's License Security Grant Program (2011 DLSGP)

Although the funds for the FY 2008 REAL ID Demonstration Grant Program were competitive, the funds for the FY 2009 DLSGP, the FY 2010 DLSGP, and FY 2011 DLSGP were allocated on a formula basis and dependent on the total number of driver licenses and identification cards issued in each state or territory.

To date, California has been awarded \$6.7 million in federal funds from the first three grants. This \$6.7 million is being used to implement enhancements to the DL/ID program in California that are consistent with the requirements of the REAL ID Act.

In June 2011, California began the process of applying for the FY 2011 DLSGP. If awarded, this would be an additional \$1.6 million in federal grant funding.